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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,  
12  
13 Plaintiff,  
14 v.

Case No.: CR 11-00341 DLJ

**STIPULATION TO CONTINUE  
HEARING AND EXCLUDE TIME;  
ORDER**

15 JAMES KELLEMS,  
16 Defendant .

Honorable D. Lowell Jensen

17 \_\_\_\_\_/  
18  
19 Defendant James Kellems and the government, through their respective counsel, hereby  
20 stipulate that, subject to the Court's approval, the hearing in the above-captioned matter, presently  
21 scheduled for Tuesday, August 30, 2011, at 9:00 a.m., be continued to Tuesday, September 27,  
22 2011, at 9:00 a.m. The continuance is requested because defense investigation and preparation are  
23 ongoing, such that the defense is not yet ready to set a schedule for litigation or trial.

24 The parties further agree that time should be excluded under the Speedy Trial Act because  
25 the ends of justice served by granting the requested continuance outweigh the interest of the public  
26

1 and the defendant in a speedy trial. The failure to grant the requested continuance would deny  
2 defense counsel reasonable time necessary for effective preparation, taking into account the exercise  
3 of due diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this  
4 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

5 Dated: 8/23/11

\_\_\_\_\_/s/\_\_\_\_\_  
LARA S. VINNARD  
Assistant Federal Public Defender

7 Dated: 8/23/11

\_\_\_\_\_/s/\_\_\_\_\_  
TOM O'CONNELL  
Assistant United States Attorney

10 **ORDER**

11 The parties have jointly requested a continuance of the hearing set for Tuesday August 30,  
12 2011, to allow additional time for defense investigation and preparation. GOOD CAUSE  
13 APPEARING, IT IS HEREBY ORDERED that the hearing date presently set for Tuesday, August  
14 30, at 9:00 a.m., will be continued to Tuesday, September 27, 2011 at 9:00 a.m.

15 Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded  
16 under the Speedy Trial Act from August 30 to September 27, 2011. The Court finds, based on the  
17 aforementioned reasons, that the ends of justice served by granting the requested continuance  
18 outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the  
19 requested continuance would deny defense counsel reasonable time necessary for effective  
20 preparation, taking into account the exercise of due diligence, and would result in a miscarriage of  
21 justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.  
22 §§ 3161(h)(8)(A) and (B)(iv).

23 Dated: August 26, 2011

  
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D. LOWELL JENSEN  
United States District Judge